

RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman (or Lynn E. in his absence)

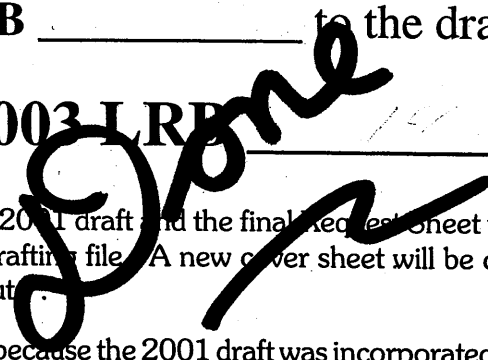
(Request Made By: RPN) (Date: 8/21/03)



☐ Please transfer the drafting file for

2001 LRB _____ to the drafting file

for 2003 LRB _____


The final version of the 2001 draft and the final request sheet will be copied on yellow paper, and returned to the original 2001 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

For research purposes, because the 2001 draft was incorporated into a 2003 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2003 drafting file. This request form will be inserted into the "guts" of the 2003 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

— OR —

☒ Please copy the drafting file for

2003 LRB 50051/ _____ and place it in the drafting file

for 2003 LRB 50189

For research purposes, because the original 2003 draft was incorporated into another 2003 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2003 drafting file. This request form will be inserted into the "guts" of the new 2003 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

The original drafting file will then be returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Added To File: 08/21/2003 (Per: RPN)



☞ The 2003 drafting file for LRB 03s0051/1

has been copied/added to the 2003 drafting file for

LRB 03s0149

☞ The attached 2003 draft was incorporated into the new 2003 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied on yellow paper (darkened - auto centered - reduced to 90%), and added, as a appendix, to the new 2003 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2003 drafting file. The drafting file was then returned, intact, to its folder and filed.

2003 DRAFTING REQUEST**Assembly Substitute Amendment (ASA-AB38)**

Received: 03/31/2003

Received By: rnelson2

Wanted: As time permits

Identical to LRB:

For: Mark Pettis (608) 267-2365

By/Representing: Kimber

This file may be shown to any legislator: NO

Drafter: rnelson2

May Contact:

Addl. Drafters:

Subject: Courts - immunity liability

Extra Copies:

Submit via email: YES

Requester's email: Rep.Pettis@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Immunity of private campground owners

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|------------------------|--------------------|------------------------|----------------|-----------------------|-----------------|-----------------|
| /? | rnelson2 03/31/2003 | jdye 04/02/2003 | | | | | |
| /P1 | | | jfrantze 04/02/2003 | | mbarman 04/02/2003 | | |
| /1 | rnelson2 | jdye | jfrantze | | lemery | lemery | |

04/08/2003 11:02:29 AM

Page 2

LRBs0051

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| | 04/03/2003 | 04/08/2003 | 04/08/2003 | _____ | 04/08/2003 | 04/08/2003 | |

FE Sent For:

<END>

2003 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB38)

Received: 03/31/2003

Received By: rnelson2

Wanted: As time permits

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For: Mark Pettis (608) 267-2365

By/Representing: Kimber

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Drafter: rnelson2

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|--------------|------------------------|---------------------|------------------------|----------------|-----------------------|-----------------|-----------------|
| /? | rnelson2 03/31/2003 | jdyer 04/02/2003 | | | | | |
| /P1 | | 1 4/8 jld | jfrantze 04/02/2003 | | mbarman 04/02/2003 | | |
| | | | Jb 4/8 | Jb/Rw 4/8 | | | |

FE Sent For:

<END>

2003 DRAFTING REQUEST**Assembly Substitute Amendment (ASA-AB38)**

Received: 03/31/2003

Received By: rnelson2

Wanted: As time permits

Identical to LRB:

For: Mark Pettis (608) 267-2365

By/Representing: Kimber

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| /? | rnelson2 | 1/1 4/2 jld | 8/4/2 | 8/6/cpl 9/2 | | | |

FE Sent For:

<END>

Law Offices
ATINSKY, KAHN, SIGULA & TEPER

PAUL E. SIGULA
ATTORNEY AT LAW
COURT COMMISSIONER

LATURE

LRBs0090/1

RPN:jld:jf

GERMANIA BUILDING SUITE 604
135 WEST WELLS STREET
MILWAUKEE, WISCONSIN 53203-1807

(414) 271-8100
FAX (414) 271-8332
RES. 278-9596

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2001 ASSEMBLY BILL 174**

February 19, 2002 – Offered by COMMITTEE ON TOURISM AND RECREATION.

1 **AN ACT** *to create* 895.523 of the statutes; **relating to:** immunity of private
2 campground owners, operators, employees, and agents.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 895.523 of the statutes is created to read:

4 **895.523 Liability exemption; private campgrounds. (1)** In this section:

5 (a) "Private campground" means a facility that is issued a campground permit
6 under s. 254.47 and that is owned and operated by someone other than a public
7 agency.

8 (b) "Public agency" has the meaning given in s. 66.0825 (3) (h).

9 **(2)** The owner or operator of a private campground and the employees and
10 agents of the owner or operator are immune from civil liability for damage to property
11 or for the death of or injury to an individual if the negligence of a person other than

1 the owner or operator of the campground and the employees and agents of the owner
2 or operator was a cause of the damage, death, or injury and all of the following apply:

3 (a) The cause of the damage, death, or injury took place on the private
4 campground property.

5 (b) Any negligence of the owner or operator or the employees or agents of the
6 owner or operator that was the cause of the damage, death, or injury is an act of
7 omission.

8 (c) The owner or operator or the employees or agents of the owner or operator
9 are not joint tortfeasors with any person other than the owner or operator or the
10 employees or agents of the owner or operator with respect to the damage, death, or
11 injury.

12 (3) The immunity under sub. (2) does not apply if the damage, death, or injury
13 is caused by any of the following:

14 (a) An intentional or malicious act of the owner or operator or the employees
15 or agents of the owner or operator.

16 (b) The malicious failure of the owner or operator or the employees or agents
17 of the owner or operator to warn against an unsafe condition on the campground
18 property, of which the owner or operator knew.

19 **SECTION 2. Initial applicability.**

20 (1) This act first applies to acts or omissions that occur on the effective date of
21 this subsection.

22 (END)

2 4
2001 - 2002 LEGISLATURE

SD 051/P1
LRB:00001
RPN:ldjif

stays

ASSEMBLY SUBSTITUTE AMENDMENT 1.
3 38
TO 2001 ASSEMBLY BILL 174

D - Note

February 19, 2002 - Offered by COMMITTEE ON TOURISM AND RECREATION.

Regen

1 AN ACT to create 895.523 of the statutes; relating to: immunity of private
2 campground owners, operators, employees, and agents.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 895.523[✓] of the statutes is created to read:

4 895.523 Liability exemption; private campgrounds. (1) In this section[✓]:

5 (a) "Private campground" means a facility that is issued a campground permit
6 under s. 254.47[✓] and that is owned and operated by someone other than a public
7 agency.

8 (b) "Public agency" has the meaning given in s. 66.0825 (3) (h).[✓]

9 (2) The owner or operator of a private campground and the employees and
10 agents of the owner or operator are immune from civil liability for damage to property
11 or for the death of or injury to an individual if the negligence of a person other than

1 the owner or operator of the campground and the employees and agents of the owner
2 or operator was a cause of the damage, death, or injury and all of the following apply:

3 (a) The cause of the damage, death, or injury took place on the private
4 campground property.

5 (b) Any negligence of the owner or operator or the employees or agents of the
6 owner or operator that was the cause of the damage, death, or injury is an act of
7 omission.

8 (c) The owner or operator or the employees or agents of the owner or operator
9 are not joint tortfeasors[✓] with any person other than the owner or operator or the
10 employees or agents of the owner or operator with respect to the damage, death, or
11 injury.

12 (3) The immunity under sub. (2)[✓] does not apply if the damage, death, or injury
13 is caused by any of the following:

14 (a) An intentional or malicious act of the owner or operator or the employees
15 or agents of the owner or operator.

16 (b) The malicious failure of the owner or operator or the employees or agents
17 of the owner or operator to warn against an unsafe condition on the campground
18 property, of which the owner or operator knew.

19 **SECTION 2. Initial applicability.**

20 (1) This act first applies to acts or omissions that occur on the effective date of
21 this subsection.[✓]

22 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

PI
LRBs0051/9dn

RPN: a...

JLD

1 par.

Substitute

This substitute amendment causes me some concern, although I drafted it for the last legislative session. The amendment gives immunity from civil damages to the private campground owner, operator, and employees and agents (owner) for damages suffered by an individual if the damage was caused by the negligence of another person. That part makes sense. But then the amendment adds specific conditions in sub. (2) (a), (b), and (c). The conditions in (a) and (c) are alright, but condition (b), which requires that any negligence of the owner *that was the cause of the damage* is an act of omission does not fit. The draft already provides that the damage was caused by the negligence of another person, so how can there be any negligence of the owner that caused the damages?

in par.

Substitute amendment

I have the same problem with the language in sub. (3). The ~~bill~~ gives immunity for the campground owner only for damages caused by another person's negligence, but sub. (3) says the immunity does not apply if the damages were caused by an intentional act of the owner or the malicious failure of the owner to warn against an unsafe condition. If the ~~bill~~ applies in cases where the damages were only caused by the negligence of another, this subsection is unnecessary.

I drafted this substitute amendment as a preliminary draft because of these concerns that I have about the substitute.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0051/P1dn
RPN:jld:jf

April 2, 2003

This substitute amendment causes me some concern, although I drafted it for the last legislative session. The substitute amendment gives immunity from civil damages to the private campground owner, operator, and employees and agents (owner) for damages suffered by an individual if the damage was caused by the negligence of another person. That part makes sense. But then the substitute amendment adds specific conditions in sub. (2) (a), (b), and (c). The conditions in pars. (a) and (c) are alright, but the condition in par. (b), which requires that any negligence of the owner *that was the cause of the damage* is an act of omission does not fit. The draft already provides that the damage was caused by the negligence of another person, so how can there be any negligence of the owner that caused the damages?

I have the same problem with the language in sub. (3). The substitute amendment gives immunity for the campground owner only for damages caused by another person's negligence, but sub. (3) says the immunity does not apply if the damages were caused by an intentional act of the owner or the malicious failure of the owner to warn against an unsafe condition. If the substitute amendment applies in cases where the damages were only caused by the negligence of another, this subsection is unnecessary.

I drafted this substitute amendment as a preliminary draft because of these concerns.

Robert P. Nelson
Senior Legislative Attorney
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E-mail: robert.nelson@legis.state.wi.us



Lu- 4/3
State of Wisconsin
2003 - 2004 LEGISLATURE

LRBs0051/~~PA~~
RPN:jld:jf

D-Note

SOON

~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~

ASSEMBLY SUBSTITUTE AMENDMENT,

TO 2003 ASSEMBLY BILL 38

Reger

✓ 1

AN ACT *to create* 895.523 of the statutes; relating to: immunity of private
campground owners, operators, employees, and agents.

*Insert 2
after 1* →

*The people of the state of Wisconsin, represented in senate and assembly, do
enact as follows:*

3 SECTION 1. 895.523 of the statutes is created to read:

4 **895.523 Liability exemption; private campgrounds.** (1) In this section:

5 (a) "Private campground" means a facility that is issued a campground permit
6 under s. 254.47 and that is owned and operated by someone other than a public
7 agency.

8 (b) "Public agency" has the meaning given in s. 66.0825 (3) (h).

9 (2) The owner or operator of a private campground and the employees and
10 agents of the owner or operator are immune from civil liability for damage to property

- 1) or for the death of or injury to an individual ^{that took place on the private campground property} if the negligence ^{or intentional or malicious act} of a person other than the owner or operator of the campground ^{or} the employees and agents of the owner or operator was a cause of the damage, death, or injury and all of the following apply:

2 (a) The cause of the damage, death, or injury took place on the private campground property.

3 (b) ~~Any negligence~~ ^{If} the owner or operator or the employees or agents of the owner or operator ^{are found to be negligent, that negligence} ~~that was the cause of the damage, death, or injury~~ is an act of omission.

4 (c) The owner or operator or the employees or agents of the owner or operator are not joint tortfeasors with any person other than the owner or operator or the employees or agents of the owner or operator with respect to the damage, death, or injury.

5 (3) The immunity under sub. (2) does not apply if ^{a cause of} the damage, death, or injury is ~~caused by~~ any of the following:

6 (a) An intentional or malicious act of the owner or operator or the employees or agents of the owner or operator.

7 (b) The malicious failure of the owner or operator or the employees or agents of the owner or operator to warn against an unsafe condition on the campground property, of which the owner or operator knew.

20 SECTION 2. Initial applicability.

21 (1) This act first applies to acts or omissions that occur on the effective date of this subsection.

23

(END)

D-note
↓

**2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0051/lins
RPN:jld:jf

insert anl:

Under this substitute amendment, the owner or operator of a private campground, and the employees and agents of the owner or operator, are immune from civil liability for damage to property or for the death or injury to a person that occurs on the campground property under the following conditions:

1. The property damage, death, or injury was caused by the negligence or intentional or malicious act of a person other than the owner, operator, employee, or agent. ✓

2. If the owner, operator, employee, or agent is found to be negligent, that negligence is an act of omission.

3. The owner, operator, employee, or agent ✓ were not joint ~~actors~~ ^{tor+feasors} with any other person with respect to the damage, death, or injury.

The immunity under the substitute amendment does not apply if a cause of the damage, death, or injury was caused by an intentional or malicious act of the owner, operator, employee, or agent, or by the malicious failure of the owner, operator, employee, or agent to warn against the unsafe condition of the campground property, of which the owner or operator knew.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0051/1dn

RPN:jld:jf

↑
stays

Rep. Pettis:

This draft has been changed based on suggestions from Don Dyke and other Legislative Council staff. These changes resolve the questions I raised about the previous version *
of the draft.

↑ that

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0051/1dn
RPN:jld:jf

April 8, 2003

Rep. Pettis:

This draft has been changed based on suggestions from Don Dyke and other Legislative Council staff. These changes resolve the questions that I raised about the previous version of the draft.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us

Emery, Lynn

From: Emery, Lynn
Sent: Friday, July 11, 2003 11:39 AM
To: Liedl, Kimberly
Subject: LRBs0051/1 & 1dn (attached as requested)



03s0051/1



03s0051/1dn

Lynn Emery
Program Assistant
Legislative Reference Bureau
608-266-3561
lynn.emery@legis.state.wi.us



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBs0051/1
RPN:jld:jf

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2003 ASSEMBLY BILL 38

- 1 AN ACT *to create* 895.523 of the statutes; relating to: immunity of private
2 campground owners, operators, employees, and agents.

Analysis by the Legislative Reference Bureau

Under this substitute amendment, the owner or operator of a private campground, and the employees and agents of the owner or operator, are immune from civil liability for damage to property or for the death or injury to a person that occurs on the campground property under the following conditions:

1. The property damage, death, or injury was caused by the negligence or intentional or malicious act of a person other than the owner, operator, employee, or agent.
2. If the owner, operator, employee, or agent is found to be negligent, that negligence is an act of omission.
3. The owner, operator, employee, or agent were not joint tortfeasors with any other person with respect to the damage, death, or injury.

The immunity under the substitute amendment does not apply if a cause of the damage, death, or injury was caused by an intentional or malicious act of the owner, operator, employee, or agent, or by the malicious failure of the owner, operator,

1 (a) An intentional or malicious act of the owner or operator or the employees
2 or agents of the owner or operator.

3 (b) The malicious failure of the owner or operator or the employee or agent of
4 the owner or operator to warn against an unsafe condition on the campground
5 property, of which the owner or operator knew.

6 **SECTION 2. Initial applicability.**

7 (1) This act first applies to acts or omissions that occur on the effective date of
8 this subsection.

9 (END)